

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.4185 OF 2004

R.N. Bhavnagari & others		Petitioners
Vs.		
Dinyar Darabsha Daruvala		Respondent

Shri P.S. Dani for the Petitioners.

Shri Y.E. Mooman for the Respondent.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: OCTOBER 12, 2004

P.C.:

1. Heard the learned Advocates for the parties.
2. The petitioners challenge the order passed by the trial Court rejecting the application for amendment filed by the petitioners. In the course of the arguments, it is submitted by the learned Advocate for the respondent that though both the parties have led their evidence and the suit is at the stage of arguments by the parties, and at that stage the present application for amendment of the pleadings was filed. Attention was drawn to the statement in para 2 of the application filed by the petitioners in the trial Court which reads "I say that all the relevant evidence has been on record including the documents." and it was submitted that in view of the evidence already on

record, no purpose would be served by allowing the petitioners to amend the pleadings. He has further stated that the respondent has no objection for looking into the entire evidence on record irrespective of the pleadings of the parties. In view of the said statement on behalf of the respondent, which is accepted by this Court, I do not see any justification for interference in the impugned order as the very purpose for which the petitioners were seeking to amend the pleadings does not survive in view of the said statement on behalf of the respondent.

3. The learned Advocate for the petitioners has also fairly submitted that in view of the said statement by the learned Advocate for the respondent, the petitioners crave leave to withdraw the petition. Petition is accordingly allowed to be withdrawn and stand disposed of as withdrawn.

4. The stay granted earlier stands vacated.

5. It is informed that in the earlier round of litigation there was a specific direction by this Court for disposal of the matter within a specific period but the same could not be adhered to on account of the stay granted in the matter. Needless to say that considering the fact that the matter relates to the year 1984, the

trial Court is expected to dispose of the matter as expeditiously as possible and in any case within a period of eight weeks from the date of receipt of intimation regarding the order passed today, after hearing the parties.
